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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,345	09/15/2003	Michael Adendorff	CA920085038US1	1574
45725 7590 03/24/2009 Walder Intellectual Property Law PC 17330 Preston Road Suite 100B Dallas, TX 75252				
EXAMINER PARKER, BRANDI P				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/663,345

**Applicant(s)**

ADENDORFF ET AL.

**Examiner**

BRANDI P. PARKER

**Art Unit**

3624

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/31/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 7-9, 14-16, 20, 22, 24, 25, 27, 33-35, 40, 45, 47, 49, 50, 52 and 55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7-9, 14-16, 20, 22, 24-25, 27, 33-35, 40, 45, 47, 49-50, 52 and 55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/31/2008 has been entered.

### ***Acknowledgements***

2. The following is a Non-Final Office action in response to communications filed on 12/31/2008. Claims 1, 7-9, 14-16, 20, 22, 24-25, 27, 33-35, 40, 45, 47, 49-50, 52 and 55 have been amended. Claims 2-6, 10-13, 17-19, 21, 23, 26, 28-32, 36-39, 41-44, 46, 48, 51 and 53-54 are cancelled.

### **Response to Applicant's Remarks**

3. In the Remarks dated 12/31/2008 Applicant stated that "Examiner Parker indicated that such an amendment would distinguish claims over the art cited in the Final Office Action". However, it appears the Applicant has misinterpreted

Art Unit: 3624

Examiners' position. To the contrary, Examiner may have discussed possible amendments to overcome the cited art, however, any and all amendments are subject to a subsequent review of the cited art as well as an additional prior art search.

### ***Examiner's Notes***

4. The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3624

6. Claims 1, 7-9, 20, 27, 29, 33-35, 45, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (US 6668253) in view of Sands (WO 01/88769).

7. With respect to **claims 1, 20, 27, 29, 45 and 52**, Thompson teaches a performance monitoring system comprising:

- a. a staging area receiving data from one or more data sources (column/line 2/5-17);
- b. a KPI store storing performance information relating to Key Performance Indicators (KPIs) (column/line 7/20-23);
- c. a loader transforming the received data into the performance information relating to the KPIs (column/line 2/10-20),
- d. an information presentation unit presenting the performance information to a user, wherein the information presentation unit has a front-end interface having a data guided monitoring function that receives a user input and presents relevant performance information in a selected order based on the user input to allow the user to monitor and analyze the performance information (column/line 9/1-31).

Thompson does not teach calculating scores and loading the scores into the KPI store. However, Sands teaches:

Art Unit: 3624

- e. calculating scores based on the received data and the performance information stored in the KPI store to indicate changes in the KPIs such that the scores indicate if associated KPIs are getting better or worse or unchanged and loading the performance information including the scores into the KPI store (page/line 3/28-4/23).
- f. wherein the staging area receives a target value and an actual value for a KPI (page/line 8/16-19), and wherein the loader calculates a score for the KPI based on the actual value and the target value to indicate if the KPI is good, bad or neutral compared to the target value (page/line 8/19-20), and calculates another score by comparing the calculated score and a score calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better, worse, or is unchanged (page/line 10/28-11/6).

It would have been obvious to one of ordinary skill in the art to include the business system of Thompson with the ability to calculating scores and loading the scores into the KPI store as taught by Sands since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Art Unit: 3624

8. With respect to **claims 7 and 33**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Thompson further teaches the information presentation unit has a function that presents a higher level of the performance information in a form capable of breaking down into a lower level of performance information (column/line 6/65-7/11).

9. As to **claims 8 and 34**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Thompson further teaches wherein the provides to the loader data that has changed from a last loading (column/line 4/64-5/14).

10. Regarding **claims 9 and 35**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Thompson further teaches the staging area contains value information for the KPIs and time information relating to one or more time periods to which the value information is applied where the KPI store is capable of storing the value information in association with the time information in a relational cube having the time and indicator dimensions, actual values, target values and score values for the KPIs, and business metadata as a network of content of the metadata (figure 23, column/line 32/39-49).

Thompson is modified by Sands to teach the loader with a function to determine which KPI is affected by a change in the value information (page/line

Art Unit: 3624

10/17-27). It would have been obvious to one of ordinary skill in the art to include the business system of Thompson with the ability to have a loader with a function to determine which KPI is affected by a change in the value information as taught by Sands since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

11. Claims 14-16, 22, 24-25, 40, 47, 49-50 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (US 6668253) and Sands ( WO 01/88769) in view of Pokorny et al (US 2003/0150908).

12. With respect to **claim 14 and 55**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1 and an application server accessing and managing the performance information stored in the KPI store (column/line 34/65-35/9). Thompson in view of Sands does not directly teach allowing annotations to the performance information. However, Pokorny teaches the information presentation unit comprises: wherein the front-end interface has a function that allows a user to add to or modify annotation in the performance information, and wherein the KPI store stores the annotation (paragraph 0056 and 0096).



It would have been obvious to one of ordinary skill in the art to include the business system of Thompson and Sands with the ability to allowing annotations to the performance information as taught by Porkorny since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

13. As to **claims 15 and 40**, Thompson and Sands in view of Porkorny teaches the performance monitoring system as claimed in claim 1. Thompson further teaches the data guided monitoring function presents the performance information of a selected KPI together with related KPIs which are in a cause and effect relation with the selected KPI. And presents the performance, information of related KPIs in a diagram to navigate the user through the related KPIs (column/line 9/1-31).

14. Regarding **claims 16, 22, 24-25, 47, and 49-50**, Thompson and Sands in view of Porkorny teaches the performance monitoring system as claimed in claim 15. Thompson further teaches the data guided monitoring function has a function that presents the performance information for relevant KPI's sorted based on a selected type of scores, and/or presents the performance information

Art Unit: 3624

for relevant KPI's filtered and sorted based on the scores of the KPI's (column/line 10/1-6).

### ***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thurs. 8-5pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley B. Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3624

/BRANDI P PARKER/  
Examiner, Art Unit 3624

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 3685